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Arnold Schwarzenegger
Governor

NOTICE OF PUBLIC HEARING
FOR
ADMINISTRATIVE CIVIL LIABILITY
IN THE MATTER OF
CITY OF VILLA PARK
ORANGE COUNTY
COMPLAINT NO. R8-2007-0059

VIOLATIONS OF CALIFORNIA WATER CODE SECTION 13385

On August 2, 2007, the California Regional Water Quality Control Board, Santa Ana Region (Regional Board), Executive Officer issued Complaint No. R8-2007-0059 (Complaint) for Administrative Civil Liability to the City of Villa Park (Discharger), in the amount of \$115,780. The Complaint was issued for the alleged non-compliance with the Areawide Urban Storm Water Runoff Permit for Orange County and the Incorporated Cities, which violated Section 13385 of the California Water Code (CWC). For such violations CWC Section 13385(c) authorizes the Regional Board to impose Civil Liability in an amount not to exceed the sum of \$10,000 for each day in which the violation occurs plus \$10 per gallon of unlawful discharge.

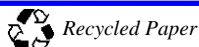
Opportunity for Settlement Without a Public Hearing

A 30-day public comment period has commenced beginning on the date of this notice. If no significant comments are received during the comment period, the Discharger will have the opportunity to settle the matter by paying the proposed Administrative Civil Liability. The Executive Officer will consider comments received and either finalize the settlement or take other appropriate action.

Public Hearing

If the Discharger expresses intent to contest the Complaint by not waiving the hearing, the Regional Board will hold a public hearing on November 30, 2007, 9:00 a.m., or as announced in the Regional Board's summary agenda to be mailed on or about November 9, 2007. The meeting is scheduled to be held at the Irvine Ranch Water District offices, located at 15600 Sand Canyon Avenue, Irvine, California. At the hearing, the Regional Board will consider whether to affirm, reject, or modify the proposed Civil Liability, or take other enforcement action.

California Environmental Protection Agency



Hearing Participants

The Administrative Procedure Act and due process considerations require the Regional Board to separate prosecutorial and adjudicative functions in “prosecutorial” matters.

The Enforcement Team, which advocates for the proposed enforcement action, consists of: Gerard Thibeault, Executive Officer; Michael Adackapara, Supervising Water Resource Control Engineer; Mark Smythe, Chief – Coastal Storm Water Section; Marc Brown, Environmental Scientist; and Aaron Buck, Environmental Scientist.

The Advisory Team assists the Regional Board Chair in prehearing procedural matters, and will advise the Board during the hearing and in deliberations on the evidence presented in the proceedings. The Advisory Team consists of Kurt Berchtold, Assistant Executive Officer, and Erik Spiess, Senior Staff Counsel. Designated parties or their representatives shall not engage in *ex parte* contacts concerning this pending matter with any member of the Advisory Team. An *ex parte* contact is defined as an off-the-record (i.e., private) communication concerning anything other than a non-controversial procedural issue. (See Gov. Code, §§ 11425.30, 11430.10.)

Participants at the hearing are either designated as “parties” or “interested persons.” Designated parties to the hearing may present evidence and cross-examine witnesses. Designated parties are subject to cross-examination. Interested persons may present non-evidentiary policy statements, and are not subject to cross-examination. Interested persons may not conduct cross-examination, but may be asked to respond to clarifying questions from the Regional Board, the Advisory Team, or others, at the discretion of the Regional Board.

The following participants are hereby designated as parties at the hearing:

Regional Board Enforcement Team
City of Villa Park

All other persons who wish to participate in the hearing as a designated party shall request party status in writing. The request must be received by Kurt Berchtold (address below) no later than **November 9, 2007**. The request shall include an explanation of the basis for status as a designated party (e.g., how the issues to be addressed in the hearing and the potential actions by the Regional Board affect the person), and a statement explaining why the party or parties designated above do not adequately represent the person's interests. The requesting party will be notified at or before the hearing whether the request is granted. ***It is not necessary to be a designated party in order to submit written comments to the Regional Board or to speak at the hearing.***

Written Submissions

Due from all designated parties and interested persons: All evidentiary material, legal argument, and policy statements (collectively "comments") concerning this matter in advance of the hearing. Comments must be **received** in writing (via regular mail or electronic mail) by Kurt Berchtold (address below), with a copy to Erik Spiess (address below), no later than **November 2, 2007, 5:00 p.m.**

Service procedure for designated parties only: At the same time as each designated party submits the above comments, it shall send one copy of those comments to the other designated party(ies) at the address(es) provided below. Copies of general vicinity maps or large, non-technical photographs are not required to be submitted prior to the hearing. Any witness providing written testimony shall appear at the hearing and affirm that the written testimony is true and correct.

Additional submissions due from designated parties: The following must be **received** in writing (via regular or electronic mail) by Kurt Berchtold (address below), with a copy to Erik Spiess (address below), no later than **November 8, 2007, 5:00 p.m.**: (1) Any objections regarding the hearing, including any matter set forth in this Hearing Notice; (2) Any other legal objections to submittals by other designated parties (other than evidentiary or procedural objections that originate at the hearing); (3) a list of witnesses each designated party may call to testify at the hearing and/or affirm written testimony already submitted; and (4) a short summary description of each witness' intended testimony.

Late comments and objections are presumed prejudicial to other designated parties and the Regional Board and will not be accepted, except at the discretion of the Chair. The Chair may choose to accept and admit into the administrative record late written comments and objections only upon a satisfactory showing of severe hardship by the submitter and upon finding that prejudice to a designated party or the Regional Board will not result. (California Code of Regulations, Title 23, Sections 648.1 and 648.4).

Oral Presentations

Oral presentations by designated parties at the above-scheduled hearing may summarize or explain timely submitted or late-accepted written comments and objections, but **shall not add new evidence or argument** except for objections that arise at the hearing.

The order of presentation will be as follows unless otherwise directed by the Chair:

1. Enforcement Team Opening
2. Discharger Cross-Examination (if any)
3. Discharger Opening



4. Enforcement Team Cross-Examination (if any)
5. Discharger Closing
6. Enforcement Team Closing
7. Interested Persons
8. Close of Hearing

The time constraints for oral participation will be set by the Chair. Designated parties will usually receive no more than 30 minutes they may allocate for opening, cross-examination, and closing in any proportion they choose. Designated parties requesting more than 30 minutes should contact Kurt Berchtold by **November 14, 2007, 5:00 p.m.** to request additional time. Interested persons will usually receive three minutes to make policy statements.

Contact Information

For the City of Villa Park:

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For the Enforcement Team:

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For the Advisory Team:

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Erik Spiess, Senior Staff Counsel
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Questions

Questions concerning the hearing may be addressed to Kurt Berchtold or Erik Spiess.

Document Review

The Complaint is available for review on the Regional Board web site at http://www.waterboards.ca.gov/santaana/html/enforcement_actions.html The draft staff report and draft Administrative Civil Liability Order will be available for review (and distributed to the Advisory Team and to designated parties via the above service procedure) by **October 19, 2007**. Those documents, as well as the balance of the public file for this matter, may be inspected or copied at the Regional Board office during regular office hours (Monday – Friday, 8:00 a.m. to 5:00 p.m.). Appointments are recommended for file review. Appointments can be made by calling (951) 782-4130.

Notice issued: October 3, 2007

